

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CASSANDRA C DE BACA,
as Personal Representative of the
ESTATE OF BEN C DE BACA, Deceased,

Plaintiff,

vs.

No. 17-CV-1058 JB-LF

TOWN OF BERNALILLO ex rel.
TOWN OF BERNALILLO POLICE DEPARTMENT, et al.,

Defendants.

AFFIDAVIT OF DAVID LINTHICUM

COUNTY OF SANDOVAL)
) ss.
STATE OF NEW MEXICO)

I, David Linthicum, having been first duly sworn upon my oath,
hereby do state as follows:

1. My name is David Linthicum.
2. This affidavit is based on my personal knowledge and my review of selected Santa Ana Tribal Police Department policies and other documents, as discussed herein, that were made and kept in the course of the department's regularly conducted activities.
3. I am the Chief of the Santa Ana Tribal Police Department of Santa Ana Pueblo, which is a sovereign Native American Tribe located within the County of Sandoval, State of New Mexico.
4. The Santa Ana Tribal Police Department employs approximately twenty police officers, who are state-certified law enforcement officers. The officers hold commissions from the department to serve as tribal police officers, as well as commissions to act as New Mexico peace officers which are issued to



them by the Chief of the New Mexico State Police pursuant to § 29-1-11 NMSA 1978 and an agreement between the Chief and the Pueblo of Santa Ana, and commissions to serve as Special Deputies which are issued to them by the Sheriff of Sandoval County pursuant to § 4-41-10 NMSA 1978.

5. I have attached a true and correct copy of the department's General Order regarding Jurisdiction, No. 01-04.1, which defines the levels of jurisdiction and delineates the geographic area of primary jurisdiction of the tribal officers. See Exhibit 5-A.

6. Under the terms of General Order No. 01-04.1, the jurisdiction of the tribal police officers is limited to the geographic area within the exterior boundaries of Santa Ana Pueblo as well as the other areas outside the boundaries that are owned by the Pueblo. Pursuant to the General Order, tribal police officers must strive to cooperate with other area law enforcement agencies, including but not limited to the Bernalillo Police Department, the Rio Rancho Police Department, and Sandoval County Sheriff's Office. As part of their authority and jurisdiction to act in their capacity as tribal police officers, Santa Ana Pueblo officers are permitted to provide support, backup and assistance to the other law enforcement agencies outside of the exterior pueblo boundaries or outside of lands owned by the pueblo, but only when requested to do so by the other law enforcement agency, or when an emergency is observed by the tribal police officer. When such a request for support, backup or assistance is made and a tribal police officer

responds to the request, he or she is deemed by the General Order to be under the immediate command of the requesting agency's chief law enforcement officer or his or her designee, but at all time remains under the ultimate command of the Chief of Police of the Santa Ana Pueblo Tribal Police Department.

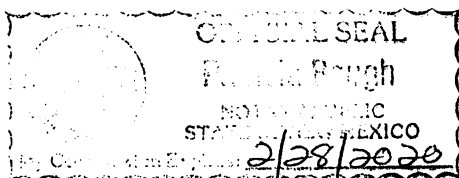
7. Under the terms of the Agreement between the Chief of the New Mexico State Police and the Pueblo of Santa Ana, entered in accordance with § 29-1-11 NMSA 1978, the jurisdictional authority of tribal police officers to act as New Mexico peace officers and thereby enforce state laws is limited to the geographic areas laying within the exterior boundaries of the Pueblo of Santa Ana, except in cases of so-called hot pursuit of an offender who flees beyond the exterior boundaries of the reservation, and in which cases the tribal officer is permitted to act beyond the boundaries. I have attached a true copy of the Agreement as Exhibit 5-B; see Section 2 ("Territorial Limitation").



DAVID LINTHICUM

SUBSCRIBED AND SWORN TO before me by David Linthicum on this 12 day of December, 2017.


NOTARY PUBLIC

My Commission Expires:



SANTA ANA TRIBAL POLICE DEPARTMENT GENERAL ORDER	REVISION DATE September 23, 2003	NUMBER 01-04.1	
CATEGORY Law Enforcement Role, Responsibility, & Relationships	INDEXED AS Jurisdiction	CALEA 2.1.1 2.1.2 2.1.4	
SUBJECT Jurisdiction			
AUTHORIZING SIGNATURE 			

I. PURPOSE

The purpose of this directive is to define the levels of jurisdiction and to delineate the geographic area of primary jurisdiction in which the Santa Ana Tribal Police Department executes its police function.

II. DEFINITIONS

Primary Jurisdiction: The geographic area in which a police agency maintains responsibility for managing and executing the police function including emergency response, preliminary and follow-up investigation and traffic enforcement.

Secondary Jurisdiction: The geographic area in which a police agency acts in a supportive role to the primary jurisdiction agency.

Concurrent Jurisdiction: The geographic area in which two (2) or more police agencies would appear to have primary jurisdiction. The Santa Ana Tribal Police Department shares concurrent jurisdiction with several law enforcement agencies. These agencies are:

1. Bureau of Indian Affairs – Office of Law Enforcement Services (BIA-OLES)
2. Federal Bureau of Investigations (FBI)
3. United States Secret Service (USSS)
4. Railroad Police
5. Alcohol, Tobacco, and Firearms (ATF)
6. Federal Drug Enforcement Agency (DEA)
7. United States Postal Service (USPS)
8. United States Marshals Service (USMS)
9. United States Immigration and Customs Enforcement (ICE)
10. New Mexico State Police (NMSP)
11. New Mexico Department of Public Safety/Motor Transport Division (NMDPS/MTD)
12. New Mexico Department of Game and Fish (NMDGF)
13. Sandoval County Sheriff's Office (SCSO)
14. Adult Probation and Parole
15. Sandoval County Fire Department (SCFD)
16. Animal Control Officers
17. Rio Grande Conservancy District (RGCD)



- 18. Bernalillo Police Department (BPD)
- 19. Rio Rancho Police Department (RRPD)

III. POLICY

The jurisdiction of the Santa Ana Tribal Police Department lies within the incorporated limits of the Pueblo of Santa Ana and within those areas owned by the Pueblo that lie outside the geographic boundaries of the Pueblo. (2.1.1) It is the policy of the Department to cooperate with all law enforcement agencies and other related entities to the fullest possible extent when such cooperation would enhance the Department's mission of service and protection to the community.

IV. REGULATIONS

- A. The primary directive of the Santa Ana Tribal Police Department is to provide police services to the citizens of the Pueblo of Santa Ana.
- B. Employees shall strive to provide the utmost cooperation to all law enforcement agencies with which the Department shares concurrent jurisdiction. Request for assistance from an outside agency involving warrant service (extradition) must be approved by the Pueblo Governor or Lieutenant Governor. Any assistance rendered to any outside agency will be conducted within the policies and procedures of the Department.
- C. Officers responding to assist another agency out of the Pueblo's jurisdiction shall be under the immediate command of the requesting agency's chief law enforcement officer or their designee. Officers shall remain under the ultimate command of the Santa Ana Tribal Police Department's Chief of Police.
- D. When duty requires an officer to respond into another agency's geographic jurisdiction for other than routine reasons, that officer shall, when practical and feasible, notify that agency as to their purpose. Examples would include arrest warrant and search warrant services.
- E. When a disagreement arises concerning jurisdiction, officers of the Santa Ana Tribal Police Department will make appropriate investigations on offenses occurring within the external boundaries of the Pueblo of Santa Ana.
- F. Officers of the Santa Ana Tribal Police Department are expected to cooperate fully with outside agencies. Santa Ana Tribal Police Officers will provide support and backup to outside agencies when requested or when an emergency is observed.

V. PROCEDURES

A. Requesting Federal Law Enforcement Assistance in Emergency Situations (2.1.4)

- 1. The supervisor or IC of the emergency situation shall be responsible for making contact with the appropriate federal agency needed.
- 2. Notification, via the chain of command, shall be made as soon as possible by the supervisor making the request for federal assistance.

B. Requesting National Guard Assistance in Emergency Situations (2.1.4)

1. The on duty patrol supervisor or the IC of the situation shall determine that all immediate available resources have been used and that the situation poses a threat or danger that would justify the use of the National Guard. Notification, via the chain of command, shall be made as soon as possible by the supervisor making the request for federal assistance.

2. If it is determined by the on-scene IC that no additional staffing resources are available and that the National Guard is needed, he/she shall contact the Chief of Police to advise him/her of the situation.

3. The Chief of Police, upon determination that use of the National Guard is justified, shall contact the Pueblo Governor and request authorization for assistance.

C. Liaison with support agencies opens channels of communication between the Santa Ana Tribal Police Department and support agencies. This is essential in order to provide efficient and effective law enforcement services. Cooperation allows problems to be identified and barriers eliminated before they become a problem.

1. The Criminal Investigations Unit designee shall, on a periodic basis, communicate with the following in an effort to obtain feedback on investigative error, courtroom error and other areas of concern which promote greater understanding of the problems encountered by law enforcement:

a. County, District, and Juvenile Courts.

b. County and District and Juvenile Court Prosecutors.

c. Sandoval County Probation and Parole Offices.

d. Sandoval County Adult and Juvenile correctional agencies.

2. Liaison with other local law enforcement agencies shall be maintained through regularly scheduled meetings of Sandoval County law enforcement agency department heads. Supervisors and employees should exchange information with local law enforcement agencies that would increase the likelihood that crimes may be solved or that fugitives may be apprehended.

D. Outside/Specialty Agencies Jurisdiction (2.1.2)

1. Bureau of Indian Affairs – Office of Law Enforcement Services (BIA – OLES)

a. The BIA – OLES has concurrent jurisdiction with the Santa Ana Tribal Police Department for all crimes per 638-contract with the Bureau of Indian Affairs.

2. Federal Bureau of Investigation (F.B.I.)

a. The F.B.I. has concurrent jurisdiction with the Santa Ana Tribal Police Department for all crimes covered by the Major Crimes Act and federal fugitive investigations occurring within the Pueblo of Santa Ana.

b. The F.B.I. has primary jurisdiction for civil rights (USC 1983) and other federal violations. It shall be the responsibility of department employees to respond to lawful requests when dealing with F.B.I. personnel in these matters. Employees receiving these types of requests will notify the Chief of Police through the chain of command within twenty-four hours detailing the request and the action taken.

c. On all other matters of mutual interest, F.B.I. personnel will be afforded all courtesies extended to all other criminal justice agencies.

d. In the case of a death within the external boundaries of the Pueblo of Santa Ana, the FBI agent on-call will be notified and advise of the circumstances of the death. The on-call agent will then determine if the FBI will take jurisdiction.

3. U.S. Immigration and Customs Enforcement and/or Border Protection Services

a. The ICE/BP has concurrent jurisdiction with the Santa Ana Tribal Police Department over offenses that relate to their mission.

b. The mission of the U.S. Immigration and Customs Enforcement (I.C.E.) and the Border Protection Services of the Department of Homeland Security is jurisdiction over all undocumented persons in the United States. Federal law provides that only I.C.E. and Border Protection Agents can take undocumented persons into custody and does not specifically provide for the delegation of this authority to other law enforcement officers.

c. The Santa Ana Tribal Police Department will not arrest undocumented persons for illegal entry; arrests will only be made for a specific criminal or traffic offenses that have been charged against the subject.

d. Border Protection and I.C.E. Agents generally are unavailable to physically respond to incidents after business hours. Authorization from the supervisor must be obtained prior to requesting Border Protection or I.C.E. for after-hours assistance. A BP/ICE agent is on call to conduct telephonic interviews with suspects and may be reached through Sandoval County Regional Dispatch.

3. United States Secret Service

a. The United States Secret Service has concurrent jurisdiction with the Santa Ana Tribal Police Department on all counterfeit U.S. currency cases occurring in the Pueblo of Santa Ana.

b. Santa Ana Tribal Police Officers who come into possession of counterfeit U.S. currency will seize the instrument for safekeeping with a notation to release the seized items to the U.S. Secret Service once the case is deposed. Officers will document the facts of the incident on an offense report and forward the report to their supervisor.

c. In counterfeit cases where a suspect is present and probable cause exists for an arrest for passing or possessing the forged instrument, the suspect will be taken into custody. The suspect shall be booked for passing or possession of a forged instrument under the New Mexico Statute (NMSA 1978, § 30-16-10(A) and/or (B)).

4. Railroad Police

a. Railroad police have concurrent jurisdiction with the Santa Ana Tribal Police Department over the offenses that relate to the operation of rail services and lands.

b. All Railroad companies shall be the primary investigatory agency on scenes such as train derailments or on-board emergencies. If there is an accident between a vehicle and the railroad or a pedestrian and the railroad, a joint investigation may be conducted.

c. Employees who observe or respond to emergency situations in the area of any railroad property, or on or near the tracks of any railroad, shall advise the Sandoval County 911 District communications personnel to notify the responsible Railroad agency.

d. Railroad Police Officers and/or Special Agents will be extended any and all privileges offered to any other law enforcement agency. These Officers have Peace Officer status under NM Statue when protecting railroad property, passengers and passengers' property.

5. Bureau of Alcohol, Tobacco and Firearms (ATF)

a. The ATF has concurrent jurisdiction with the Santa Ana Tribal Police Department over the offenses that relate to their mission.

a. The mission of the ATF is to in protecting our community from the illegal use and trafficking of firearms, the illegal use and storage of explosives, acts of arson and bombings, acts of terrorism, and the illegal diversion of alcohol and tobacco products.

b. The ATF is available through Sandoval County 911 Dispatch Center if an incident involves areas that may be of interest to the ATF. The ATF can take jurisdictional control of an incident or case based severity.

6. Federal Drug Enforcement Administration (DEA)

a. The DEA has concurrent jurisdiction with the Santa Ana Tribal Police Department over the offenses that relate to the mission of the Drug Enforcement Administration (DEA).

b. The mission of the Drug Enforcement Administration (DEA) is to enforce the controlled substances laws and regulations of the United States and bring to the criminal and civil justice system of the United States, or any other competent jurisdiction, those organizations and principal members of organizations, involved in the growing, manufacture, or distribution of controlled substances appearing in or destined for illicit traffic in the United States; and to recommend and support non-enforcement programs aimed at reducing the availability of illicit controlled substances on the domestic and international markets.

c. The DEA is available through Sandoval County 911 Dispatch Center if an incident involves areas that may be of interest to the DEA. The ATF can take jurisdictional control of an incident or case based on severity.

7. United States Postal Service

a. The Postal Inspection Service has concurrent jurisdiction with the Santa Ana Tribal Police Department over the offenses that relate to the postal establishment. Postal jurisdiction extends to:

(1) Post Office box burglary or robbery.

(2) Assaults on mail custodians.

(3) Theft or possession of mail or pouches stolen from post offices, apartment, houses or numbered street addresses.

(4) Obstruction of the mail or correspondence.

- (5) Theft or possession of stolen Post Office Department property.**
- (6) Forgery of U.S. Postal Money Orders or Postal Savings Certificates.**
- (7) Fraudulent use of the U.S. mail system.**
- (8) Explosives, poisons, etc., in the U.S. mail system.**
- (9) Depredations (plunder) of the mails by Postal employees or others not employed by the Postal Service.**
- (10) Willful damage to letter and rural mailboxes or the theft of such boxes.**

b. The Santa Ana Tribal Police Department will provide emergency response and support, as needed, to the U.S. Postal Service. The on-duty patrol supervisor or the Department Lieutenant will request that the Sandoval County 911 Dispatch communications personnel immediately notify the postal inspectors on any confirmed robberies, burglaries or arrests of postal employees. Postal inspectors, upon arrival, will be afforded all privileges extended to other law enforcement authorities.

c. Postal authorities may take disposition on any incident involving the mail; including serious offenses; i.e., explosive devices placed in boxes, etc. The Postal Service maintains an on-call inspector, available 24-hours a day, and will respond to any serious offense.

8. United States Marshals Service (USMS)

a. The USMS has concurrent jurisdiction with the Santa Ana Tribal Police Department over the offenses that relate to their mission.

b. The USMS is the federal government's lead agency for conducting investigations involving escaped federal prisoners; probation, parole and bond default violators and fugitives based on warrants generated during drug investigations.

c. The USMS is available through the Sandoval County 911 dispatch center if an incident involves areas that may be of interest to the USMS. The USMS can take jurisdictional control of an incident or case based on severity.

10. New Mexico State Police (NMSP)

a. The NMSP has concurrent jurisdiction with the Santa Ana Tribal Police Department over the offenses committed on state right-of-way through the Pueblo of Santa Ana. The NMSP has secondary jurisdiction of areas outside of state right-of-way areas. The NMSP can be given jurisdiction for investigation of crimes if deemed necessary by the Chief of Police.

b. It is the mission of the New Mexico State Police to effectively and efficiently suppress crime, strive to protect the lives, property, constitutional rights, and vital resources of all within our area of operation. The NMSP can assist in locating, identifying, documenting, and disrupting criminal organizations in an ongoing effort to bring violators before the proper courts.

c. The NMSP is available through the Sandoval County 911 Dispatch Center. The NSMP has special resources available to the Santa Ana Police Department that can assist the department:

(1). Accident Reconstruction Team – used for the reconstruction of serious traffic accidents where the possibility of felony charges would be filed against one or more of the drivers of a crash

(2). Aircraft Aviation Team – used for search and rescue operations.

(3). Bomb Team – used for dispose of old, abandoned or destabilized commercial explosives and hazardous chemicals. They are also trained to destroy evidence with explosives, and disarm improvised bombs.

(4). Canine Team – used as a unique and effective tool in the war on illegal drugs.

(5). Clandestine Lab Team – used to investigate suspected illegal drug labs. Also, the team teaches safety and awareness classes throughout the state.

(6). Crime Scene Unit – used for crime scene investigations. Some members have been qualified in court as experts in crime scene investigation while others are experts in crime scene reconstruction.

(7). Criminal Investigations Unit – used for conducting complex, in-depth investigations into many diverse types of offenses ranging from white collar, computer and property crimes to crimes of violence such as aggravated assault, battery, or murder.

(8). Emergency Response Team – used for crowd control and civil disorder.

(9). Honor Guard – used to provide a service during funerals of commissioned officers, retired officers, elected officials, visiting dignitaries or during occasions deemed appropriated by the NMSP Chief. The Honor Guard also performs details at many ceremonies where the posting of the state and national colors is needed.

(10). Motorcycle Unit – used to as an essential tool in traffic enforcement and in responding to calls in high traffic areas.

(11). Search and Recovery Dive Team – used to respond to a drowning and underwater recovery of property and evidence.

(12). Tactical Team – used to respond to armed/barricaded subjects, hostage rescue, open field manhunts, high risk warrants and Counter Assault Team tactics for dignitary protection. The Tactical Team has been trained in Hazardous Material Tactical Operations in order to function in full SCBA tactical gear in chemically threatening environments, such as exposure to methamphetamine drug labs.

11. New Mexico Motor Transit Division (NM MTD)

a. The NM MTD has concurrent jurisdiction with the Santa Ana Tribal Police Department over the offenses committed on state right-of-way through the Pueblo of Santa Ana. Further, the NM MTD can be given jurisdiction for investigation of crimes if deemed necessary by the Chief of Police. The NM MTD has secondary jurisdiction on all other areas not involving state right of way

b. The NM MTD mission is to promote safety on New Mexico highways by providing law enforcement traffic services to the motoring public, to ensure the safe and legal operation of commercial motor vehicles and to prevent the introduction of illicit contraband into New Mexico while facilitating trade.

12. New Mexico Department of Game and Fish (NMDGF)

a. New Mexico Department of Game and Fish (NMDGF) has secondary jurisdiction with the Santa Ana Tribal Police Department with cooperation from the Santa Ana Pueblo's Division of Natural Resources.

b. The NMDGF mission is to provide and maintain an adequate supply of wildlife and fish within the state of New Mexico by utilizing a flexible management system that provides for their protection, conservation, regulation, propagation, and for their use as public recreation and food supply.

c. NMDGF may respond to situations involving their area of expertise on request from the Santa Ana Tribal Police Department or the Santa Ana Division of Natural Resources.

13. Sandoval County Sheriff's Office (S.C.S.O.)

a. The Sandoval County Sheriff's Office (S.C.S.O.) has secondary jurisdiction with the Santa Ana Tribal Police Department.

b. The Santa Ana Tribal Police Department may respond to emergency calls from the S.C.S.O. Deputies and may take disposition on any incident occurring within SAPD jurisdiction. The Santa Ana Tribal Police Department will provide support and back-up to S.C.S.O. Deputies when requested or when an emergency is observed.

c. SCSO may respond to calls for assistance when requested within the external boundaries of the Pueblo of Santa Ana. SCSO is the primary response for incidents that require more officers on scene than are available.

14. Adult and Juvenile Probation and Parole Officers

a. As terms of court ordered probation and/or parole, probation/parole officers have law enforcement authority over clients they supervise.

b. The broad search and seizure powers held by these officers of the court are not transferable to police officers or employees assisting the probation or parole officers.

c. Department employees will maintain the peace and protect probation/parole officers during the lawful execution of their duties and may transport prisoners to the appropriate booking facility for these officers.

15. Sandoval County Fire Department

a. Fires

(1) Sandoval County Regional Dispatch will dispatch one (1) police officer to any active fire, involving a structure within the external boundaries of the Pueblo of Santa Ana, for the purpose of providing crowd and traffic control. The on-scene police officer, after assessing the situation, will determine if additional police personnel are required.

b. Other Fire Department Related Calls

(1) Police personnel will respond to all fire department calls and rescue requests within the jurisdictional boundaries of the Pueblo of Santa Ana.

16. Animal Control Officers

a. Officers will provide assistance to any Animal Control Officer upon request or during emergency situations occurring within the external boundaries of the Pueblo of Santa Ana.

17. Rio Grande Conservancy District (RGCD)

a. Rio Grande Conservancy District (RGCD) has concurrent jurisdiction with the Santa Ana Tribal Police Department only for lands where the Rio Grande Conservancy District (RGCD) has primary jurisdiction.

b. The Santa Ana Tribal Police Department may respond to emergency calls from the Rio Grande Conservancy District (RGCD) and may take disposition on any incident occurring within SAPD jurisdiction. The Santa Ana Tribal Police Department will provide support and back-up to Rio Grande Conservancy District (RGCD) when requested or when an emergency is observed. Santa Ana Tribal Police Department may self-initiate calls for service if a potential criminal act is observed or reported.

c. Rio Grande Conservancy District (RGCD) may respond to calls for assistance when requested within the external boundaries of the Pueblo of Santa Ana only for lands where they have primary jurisdiction.

18. Bernalillo Police Department (BPD)

a. The Bernalillo Police Department (BPD) has secondary jurisdiction with the Santa Ana Tribal Police Department.

b. The Santa Ana Tribal Police Department may respond to emergency calls from the Bernalillo Police Department (BPD) but will not take disposition on any incident occurring within BPD jurisdiction. The Santa Ana Tribal Police Department will provide support and back-up to Bernalillo Police Department (BPD) when requested or when an emergency is observed.

c. Bernalillo Police Department (BPD) may respond to calls for assistance to the Santa Ana Tribal Police Department when requested within the external boundaries of the Pueblo of Santa Ana.

19. Rio Rancho Police Department (RRPD)

a. The Rio Rancho Police Department (RRPD) has secondary jurisdiction with the Santa Ana Tribal Police Department.

b. The Santa Ana Tribal Police Department may respond to emergency calls from the Rio Rancho Police Department (RRPD) but will not take disposition on any incident occurring within RRPD jurisdiction. The Santa Ana Tribal Police Department will provide support and back-up to Rio Rancho Police Department (RRPD) when requested or when an emergency is observed.

c. Rio Rancho Police Department (RRPD) may respond to calls for assistance to the Santa Ana Tribal Police Department when requested within the external boundaries of the Pueblo of Santa Ana.

E. Court Jurisdictions

1. If a criminal incident occurs within the external boundaries of the Pueblo of Santa Ana or on property owned and governed by the Pueblo of Santa Ana, the case will be referred to the proper criminal court, based on the ethnicity of the involved parties. Misdemeanor cases involving Native American offenders will be referred to the Santa Ana Pueblo Tribal Court for prosecution. Misdemeanor cases involving Non-Native American offenders will be referred to the Sandoval County Magistrate Courts for prosecution. Felony cases will be referred to the District Court for prosecution through the District Attorney's Office.

2. If a civil incident occurs and it is within the external boundaries of the Pueblo of Santa Ana, AND the complainant is Native American, the complaint will be referred to Santa Ana Tribal Court.

3. If a civil incident occurs and it is within the external boundaries of the Pueblo of Santa Ana, AND the complainant is Non-Native American, the complaint will be referred to US District Court in Albuquerque, NM.

Upon enactment, this directive will rescind and supersede any and all previous directives pertaining to this subject.

AN AGREEMENT BETWEEN THE

NEW MEXICO STATE POLICE

AND

THE PUEBLO OF SANTA ANA

WHEREAS, the Legislature of the State of New Mexico has granted authority to the Chief of the New Mexico State Police to issue commissions as New Mexico peace officers to members of the police or sheriff's department of any New Mexico Indian tribe, or pueblo or a law enforcement officer employed by the Bureau of Indian Affairs, NMSA 1978, Section 29-1-11 (1972); and

WHEREAS, the New Mexico State Police and the PUEBLO OF SANTA ANA (hereinafter "Pueblo") desire to effectuate such legislative authorization according to the terms and conditions contained in this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual promises and conditions hereinafter set forth, the Chief of the New Mexico State Police and the duly authorized official or officials of the Pueblo agree as follows:

Section 1, Commissions:

A. "Commission", as referred to in this Agreement, shall mean a commission to act as a New Mexico peace officer issued by the Chief of the New Mexico State Police. Upon receiving a request from the Pueblo, the Chief of the New Mexico State Police shall supply to the Pueblo applications for commissions to act as New Mexico peace officers pursuant to this Agreement. These applications shall be completed and returned to the Chief of the New Mexico State Police who shall grant or deny each application within a reasonable period of time.

B. An application for a commission shall not be granted by the Chief of the New Mexico State Police in the absence of compliance with the following requirements:

1. The applicant has complied with the prerequisites for permanent appointment as a police officer as set forth in NMSA 1978, Section 29-7-8(A) 1-6, or analogous statutory sections which are hereafter enacted by the New Mexico Legislature. Said prerequisites include:
 - a. the applicant is a citizen of the United States, and has reached the age of majority;



- b. the applicant holds a high school diploma or the equivalent;
 - c. the applicant holds a valid New Mexico driver's license;
 - d. the applicant is found, after examination by a licensed physician, to be free of any physical condition which might adversely affect his or her performance as a police officer; and is found, after examination by a certified psychologist, to be free of any emotional condition which might adversely affect his or her performance as a police officer;
 - e. the applicant has not been convicted of, pled guilty to, or entered a plea of nolo contendere to any felony charge;
 - f. the applicant has met such other requirements as may be prescribed by the New Mexico Law Enforcement Academy Board.
2. The Pueblo submits proof of adequate public liability and property damage insurance for vehicles operated by peace officers, and police professional liability insurance covering each of its peace officers commissioned pursuant to this Agreement from a company licensed to sell insurance in the State of New Mexico. Such insurance policies, amendments thereto or applicable certificate of insurance shall contain a provision requiring the insurance company or appropriate agent thereof to give immediate notice to the Chief of the New Mexico State Police of any cancellation or termination of the policy or policies. Such policies shall be exhibited to the Chief of the New Mexico State Police upon his or her request, are subject to his or her approval, and shall be in the amount and shall contain such terms and conditions as may be required by the Chief of the New Mexico State Police.
3. The applicant for a commission has successfully completed four hundred hours of basic police training which has been approved by the Director of the Training Division, New Mexico Department of Public Safety.

C. After the applicant has complied with the prerequisites of Section 1, Commissions, Paragraph B, the Chief of the New Mexico State Police will issue a commission hereunder unless he

or she determine in his or her discretion, that grounds exist for denying the applicant a commission.

D. The Chief of the New Mexico State Police may, at any time, suspend any commission for reasons solely within his or her discretion. Within ten (10) days of receipt of verbal or written notice of suspension from the Chief of the New Mexico State Police, the Pueblo shall cause the commission to be returned to the Chief of the New Mexico State Police unless otherwise directed by the Chief of the New Mexico State Police. Suspension will ordinarily be for reasons related to the fitness of the officer or other reasons justifying the conclusion that continuance of the commission would not be in the interest of this Agreement. The reasons for suspension include but are not limited to the following:

1. termination of the peace officer, voluntarily or involuntarily, from the Pueblo's law enforcement unit or agency;
2. transfer or reassignment of the peace officer out of the area which is coextensive with the exterior boundaries of the Pueblo's reservation;
3. conviction of the peace officer of a felony or other crime involving moral turpitude; or
4. if upon examination by a licensed physician or certified psychologist, the peace officer is found not to be free of any physical, emotional or mental condition which might adversely affect his or her performance as a peace officer.

E. The Pueblo shall inform the Chief of the New Mexico State Police of the existence of any grounds, including those set forth under Section 1, Commissions, paragraph D of this Agreement, for suspending a commission.

F. The Chief of the New Mexico State Police shall provide written notice to the Pueblo if a commission is denied or suspended as provided in this Agreement with the reason stated therein. The decision of the Chief of the New Mexico State Police to deny or suspend a commission, whether temporarily, indefinitely or permanently, shall be final.

G. This Agreement, or any commission issued pursuant to it, shall not confer any authority on a Tribal court or other Tribal authority which that court or authority would not otherwise have.

Section 2, Territorial Limitation:

The authority conferred by this Agreement shall be coextensive with the exterior boundaries of the Pueblo's reservation. An exception to the provisions herein contained concerning territorial limitation is that a peace officer commissioned under this Agreement may proceed in hot pursuit of an offender beyond the exterior boundaries of the reservation as allowed by law.

Section 3, Scope of Powers Granted:

A. Peace officers commissioned pursuant to this Agreement shall have the power:

1. to enforce the New Mexico Motor Vehicle Code and arrest for violations as necessary;
2. to enforce the New Mexico Criminal Code and Other Criminal Offenses as provided in the New Mexico Statutes Annotated and arrest for violations as necessary; and
3. to enforce the New Mexico Children's Code and take children into custody as therein provided.

B. Peace officers commissioned pursuant to this Agreement shall comply with the applicable statutory provisions concerning enforcement of the New Mexico Motor Vehicle Code, the New Mexico Criminal Code, and the New Mexico Children's Code.

Section 4. Uniform Traffic Citations:

A. Peace officers commissioned pursuant to this Agreement, when acting pursuant to said commission, shall use the New Mexico Uniform Traffic Citation when issuing traffic citations for violations of the New Mexico Motor Vehicle Code.

B. The Pueblo's law enforcement unit or agency agrees to reimburse the New Mexico State Police for the cost of New Mexico Uniform Traffic Citation forms provided to the Pueblo's law enforcement unit or agency.

C. The Pueblo's law enforcement unit or agency shall issue, keep a record of, and require a receipt for, each serially numbered New Mexico Uniform Traffic Citation issued to individual peace officers commissioned pursuant to this Agreement.

D. The goldenrod-colored officer's second copy of any New Mexico Uniform Traffic Citation issued pursuant to a commission authorized by this Agreement must be submitted within five (5) days to the Chief of the New Mexico State Police, or his or her authorized agent.

E. Any New Mexico Uniform Traffic Citation issued pursuant to a commission authorized by this Agreement shall be to a Magistrate Court of the State of New Mexico.

F. Any citations issued to Indians for violating tribal criminal laws, and any citations issued to any person for engaging in activities prohibited by tribal civil laws, shall be made pursuant to the Pueblo's authority to issue such citations, shall be processed in accordance with applicable federal and tribal law, and are expressly not issued--nor shall they be deemed issued--pursuant to the terms and conditions of this Agreement.

G. Payment of New Mexico Motor Vehicle Code penalty assessments must be made by mail to the New Mexico Motor Vehicle Division in Santa Fe within thirty (30) days from the date of the offense.

H. Additional requirements concerning the New Mexico Uniform Traffic Citations, including specific distribution and control procedures, as designated in the Uniform Traffic Citation Manual, may be issued to the Pueblo by the Chief of the New Mexico State Police.

Section 5, Custody of Persons:

A. No person shall be detained by a peace officer commissioned pursuant to this Agreement for a period in excess of two (2) hours without oral notification to an officer of the New Mexico State Police.

B. Any person arrested by a peace officer commissioned pursuant to this Agreement shall, without unnecessary delay be taken to a New Mexico Magistrate having jurisdiction, a State Police officer, or a County Sheriff for further proceedings in accordance with law.

C. Any person arrested by a peace officer commissioned pursuant to this Agreement shall be immediately informed of his or her United States Constitutional Rights by the peace officer as specified on a written form to be supplied by the Chief of the New Mexico State Police and that person shall be afforded any other rights conferred by law.

Section 6, Indemnification:

The Pueblo agrees to hold harmless and promptly indemnify and reimburse the State of New Mexico, the New Mexico Department of Public Safety, and the New Mexico State Police, their agents, employees and insurers from any claim, judgment or liability of any nature which may arise out of the actions of a peace officer commissioned pursuant to this Agreement.

Section 7, Status of New Mexico Peace Officer:

The Pueblo, its agents and employees, including peace officers commissioned pursuant to this Agreement, are not employees of the State of New Mexico. No insurance coverage, retirement benefits or any other benefits afforded to employees of the State of New Mexico shall be provided by the State of New Mexico, the New Mexico Department of Public Safety, or the New Mexico State Police to the Pueblo, its agents and employees, including peace officers commissioned pursuant to this Agreement. It is understood and agreed by the parties to this Agreement that the State of New Mexico, the Department of Public Safety and the New Mexico State Police, their agents, employees and insurers, have no authority nor any right whatsoever to control in any manner the day-to-day discharge of the duties of the persons commissioned pursuant to this Agreement; but rather these persons are acting in the capacity of an independent contractor as an employee of the Pueblo and that they are not an employee or agent of any kind of the State of New Mexico, the New Mexico Department of Public Safety, or the New Mexico State Police. It is further understood and agreed that the State of New Mexico, the New Mexico Department of Public Safety, and the New Mexico State Police, their agents, employees and insurers do not by this Agreement assume any responsibility or liability for the actions of those persons provided commissions pursuant to this Agreement.

Section 8, Status of Pueblo:

Nothing in this Agreement impairs or affects the existing status and sovereignty of the Pueblo or members thereof as established under the laws of the United States. Furthermore, nothing in this Agreement shall be deemed to impair or affect the actions of officers commissioned under this Agreement when acting under tribal law pursuant to their commissions as tribal police officers.

Section 9, Quarterly Meetings

The Chief of the New Mexico State Police, or his or her designee, and the duly authorized official or officials of the Pueblo shall meet at least quarterly or more frequently at the call of the Chief of the New Mexico State Police to discuss the status of the agreement and may invite other law enforcement or other officials to attend as necessary.

Section 10, Suspension or Termination of Agreement:

A. If any provision of this Agreement is violated by the Pueblo or any of its agents, the Chief of the New Mexico State Police shall suspend the Agreement on five (5) days written notice setting forth the reasons for the suspension, which suspension shall last until the Chief of the New Mexico State

Police is satisfied that the violation has been corrected and will not reoccur. Reinstatement of this Agreement may be made contingent upon satisfaction of such conditions as the Chief of the New Mexico State Police may specify. The parties agree to cooperate to correct the condition that has caused the suspension.

B. Either the Pueblo or the Chief of the New Mexico State Police may terminate this Agreement at any time by giving written notice to the other of such termination which shall be effective thirty (30) days after the date of receipt of said notice. Upon such termination, the Pueblo shall forthwith return to the Chief of the New Mexico State Police all New Mexico Uniform Traffic Citation forms in its possession and be reimbursed therefor by the Chief of the New Mexico State Police and return all commissions issued pursuant to this Agreement.

Section 11, Amendments to and Enforcement of the Agreement:

A. This Agreement shall not be altered, changed or amended except by an instrument in writing executed by the Chief of the New Mexico State Police and the duly authorized official or officials of the Pueblo.

B. This Agreement and any amendment hereto shall be governed by the laws of the State of New Mexico.

Section 12, Effective Date

The effective date of this Agreement shall be the date the Chief of the New Mexico State Police executes this Agreement.

NEW MEXICO STATE POLICE

Frank R. Taylor
Frank Taylor, Chief

Date: 3/9/00

PUEBLO OF SANTA ANA

[Signature]
Governor

Date: 2/17/00

PUEBLO OF SANTA ANA

[Signature]
Chief, Tribal Police

Date: 17 Feb 00

Approved as to form and legal sufficiency:

[Signature]
JOHN W. WHEELER, Chief Counsel
Office of Legal Affairs

Date: 3/9/00